

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 9039 – SB 9038**

October 27, 2021

**SUMMARY OF BILL:** Defines “medical intervention” as a treatment for COVID-19 covered by an emergency use authorization by the federal Food and Drug Administration, but does not include a vaccine. Prohibits an individual, governmental entity, legal entity, or government mandate from requiring a medical intervention to access the goods, services, or amenities offered by such entity. Prohibits an individual, governmental entity, legal entity, or government mandate from requiring an individual to wear a mask to access the goods, services, or amenities offered by such entity.

Authorizes an individual required to receive a medical intervention or wear a mask in violation of these provisions to bring a civil cause of action, or any other remedies or penalties provided in statute. Requires the person that violates this chapter be liable for the actual damages caused by the violation and any additional amount no less than \$250.

**ESTIMATED FISCAL IMPACT:**

**Other Fiscal Impact – The estimated increase in state and local court caseload, staffing, and expenditures cannot be estimated with reasonable certainty.**

**Federal funding could be jeopardized. The amount and timing cannot be determined with reasonable certainty.**

Assumptions:

- The U.S. Supreme Court issued a ruling on February 20, 1905, *Jacobson v. Massachusetts*, upholding the right of states to compel vaccination.
- Each state decides which vaccines are required based on recommendations from the Centers for Disease Control and Prevention Advisory Committee on Immunization Practices (ACIP).
- Immunization or vaccination for COVID-19 is currently not required by any state or local governmental entity in Tennessee. Prohibiting any such future requirement will not result in a significant fiscal impact to the state or local government.
- Certain private businesses, governmental entities, and legal entities currently require an individual to wear a mask to access the amenities offered by such entity.
- The proposed legislation is estimated to cause a significant increase in civil actions filed in the state and local court system, as well as a significant increase in damages paid for

violations of the provisions in the proposed legislation. Any such increase in caseloads, staffing, and expenditures cannot be determined with reasonable certainty.

- If the proposed legislation prohibits a state or local entity or private business from adhering to any federal regulations or mandates, federal funding could be jeopardized. The amount of federal funding in jeopardy cannot be determined with reasonable certainty.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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